

**ADOPTED REGULATION OF THE NEVADA
TRANSPORTATION AUTHORITY**

LCB File No. R060-13

Effective January 1, 2014

EXPLANATION – Matter in *italics* is new; matter in brackets ~~(omitted material)~~ is material to be omitted.

AUTHORITY: §§1-7, NRS 706.171 and section 2 of Senate Bill No. 210, Chapter 402, Statutes of Nevada 2013, at page 2177 (NRS 706.462).

A REGULATION relating to motor carriers; prohibiting a person from driving a charter bus for the purposes of charter bus transportation, a motor vehicle for a fully regulated carrier of passengers or a taxicab motor carrier as an employee, independent contractor or lessee unless the person has in his or her possession a valid driver's permit issued by the Nevada Transportation Authority; providing for the issuance of a temporary driver's permit under certain circumstances; providing that a driver's permit issued by the Authority remains the property of the Authority and must be returned to the Authority under certain circumstances; prohibiting the holder of a certificate of public convenience and necessity to operate as a motor carrier from allowing certain persons to drive without a valid driver's permit issued by the Authority; and providing other matters properly relating thereto.

Section 1. Chapter 706 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *A person shall not drive a charter bus for the purposes of charter bus transportation, a motor vehicle for a fully regulated carrier of passengers or a taxicab motor carrier as an employee, independent contractor or lessee unless the person has in his or her possession a valid driver's permit issued to the person by the Authority pursuant to section 2 of Senate Bill No. 210, Chapter 402, Statutes of Nevada 2013, at page 2177 (NRS 706.462).*

2. *If the Authority determines that a charter bus operated for the purposes of charter bus transportation, a motor vehicle operated for a fully regulated carrier of passengers or a*

taxicab motor carrier is being driven by a person who does not possess a valid driver's permit, the Authority may cause the vehicle to be withdrawn from service until such time as a person who possesses a valid driver's permit is available to drive the vehicle.

Sec. 3. *A driver's permit issued by the Authority remains the property of the Authority and must be returned to the Authority when the person to whom the driver's permit has been issued changes employment or leaves the industry or upon demand of the Authority.*

Sec. 4. *The Authority may issue a temporary driver's permit to an applicant for a driver's permit which is valid only during the period in which the Authority conducts an investigation of the applicant's background as authorized by section 2 of Senate Bill No. 210, chapter 402, Statutes of Nevada 2013, at page 2177 (NRS 706.462), and processes the application. A temporary driver's permit issued by the Authority expires on the date on which the Authority issues or refuses to issue a driver's permit to the applicant.*

Sec. 5. NAC 706.229 is hereby amended to read as follows:

706.229 1. In addition to the applicable requirements set forth in 49 C.F.R. §§ 391.1, 391.2, 391.11(a), 391.11(b)(1) to 391.11(b)(4), inclusive, 391.11(b)(6), 391.11(b)(7), 391.11(b)(8), 391.13, 391.15, 392.2, 392.3, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 40, 382, 390, 393 and 397, a certificate holder shall not allow an employee to drive a traditional limousine or livery limousine unless the employee:

(a) Is at least 21 years of age and has a valid Nevada driver's license or is a border state employee, as that term is defined in NRS 483.035;

(b) *Possesses a valid driver's permit issued by the Authority;*

(c) Provides to the certificate holder, on or before the date on which the employee becomes employed by the certificate holder as the driver of a traditional limousine or livery limousine:

(1) A certificate from a licensed physician which demonstrates that the employee is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43; and

(2) A copy of the driving record of the employee which is obtained from the Department and which demonstrates that the employee has not, within the 3 years immediately preceding the date on which the employee becomes so employed by the certificate holder:

(I) Been convicted of driving under the influence of an intoxicating liquor or a controlled substance;

(II) Been convicted of reckless driving;

(III) Been convicted of failing to stop and remain at the scene of an accident; or

(IV) Failed to keep a written promise to appear in court for any offense; and

~~(e)~~ (d) Within the 3 years immediately preceding the date on which the employee submitted to the certificate holder an application to be a driver of a traditional limousine or livery limousine:

(1) Has not failed to appear for a hearing before the Authority which resulted in the employee being found to have violated a provision of this chapter or chapter 706 of NRS;

(2) Has not been found by the Authority to have violated the provisions of this chapter or chapter 706 of NRS more than five times; and

(3) Has not failed to pay on or before the due date any fine assessed against the employee by the Authority.

2. Each employee shall update annually the documents required pursuant to paragraph ~~(b)~~ (c) of subsection 1.

3. A certificate holder shall retain a copy of each document submitted by an employee pursuant to this section for at least 3 years after his employment has terminated.

4. The Authority will create and maintain a list of persons who are not qualified to drive a traditional limousine or livery limousine pursuant to paragraph ~~(e)~~ (d) of subsection 1.

Sec. 6. NAC 706.3751 is hereby amended to read as follows:

706.3751 1. In addition to the applicable requirements set forth in 49 C.F.R. §§ 391.51, 392.2, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 390, 393 and 397, a certificate holder shall not allow an employee or independent contractor of the certificate holder to drive a taxicab that the certificate holder is authorized to operate unless the employee or independent contractor:

(a) Is at least 21 years of age and has held for at least 30 days a valid Nevada driver's license or is a border state employee, as that term is defined in NRS 483.035;

(b) *Possesses a valid driver's permit issued by the Authority;*

(c) Provides to the certificate holder, on or before the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473:

(1) A certificate from a licensed physician which demonstrates that the employee or independent contractor is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43; and

(2) A copy of the driving record of the employee or independent contractor which is obtained from the Department and which demonstrates that the employee or independent contractor has not, within the 3 years immediately preceding the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473:

(I) Been convicted of driving under the influence of an intoxicating liquor or a controlled substance;

(II) Been convicted of reckless driving;

(III) Been convicted of failing to stop and remain at the scene of an accident; or

(IV) Failed to keep a written promise to appear in court for any offense; and

~~(e)~~ (d) Within the 3 years immediately preceding the date on which the employee or independent contractor submitted an application to the certificate holder to drive a taxicab:

(1) Has not failed to appear for a hearing before the Authority which resulted in the employee being found to have violated a provision of this chapter or chapter 706 of NRS;

(2) Has not been found by the Authority to have violated the provisions of this chapter or chapter 706 of NRS more than five times; and

(3) Has not failed to pay on or before the due date any fine assessed against the employee by the Authority.

2. Each employee or independent contractor shall update annually the documents required pursuant to paragraph ~~(b)~~ (c) of subsection 1 and submit the updated documents to the certificate holder.

3. A certificate holder shall retain a copy of each document that the employee or independent contractor submitted to the certificate holder pursuant to this section until 3 years after the employee's employment has terminated or the independent contractor's lease has expired.

4. The Authority will create and maintain a list of persons who are not qualified to drive a taxicab pursuant to paragraph ~~(e)~~ (d) of subsection 1.

Sec. 7. This regulation becomes effective on January 1, 2014.

**DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY**

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE R060-13**

The following statement is submitted for adopted amendments to Nevada Administrative Code (“NAC”) chapter 706.

1. A clear and concise explanation of the need for the adopted regulation.

LCB File R060-13 is needed to assist the Authority in implementing certain provisions of Senate Bill 210 from the 2013 Legislative Session. Additionally, in order to effectively eliminate a potentially negative impact of the bill, temporary permits will allow new drivers, or existing drivers seeking to work for a different company, to begin driving without having to wait for a complete criminal background investigation to be completed before being employed. Likewise, temporary permits will enable companies to more expeditiously hire new drivers. Chairman MacKay testified during session that the Authority would be pursuing this measure.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the notice of workshop and the notice of intent to act upon the regulations were sent by U.S. mail or via facsimile to all persons on the Authority’s mailing list for administrative rulemaking and to all motor carriers licensed by the Authority. Copies of the notices of workshop and the notice of intent to act upon the regulations were also posted at all county libraries in Nevada, at the offices of the Authority, on the Authority’s website, on the Nevada State Legislature’s website, and at the following locations:

Clark County Court House
200 Lewis Ave.
Las Vegas, NV 89155

Department of Business & Industry
555 E. Washington Blvd., Suite #4900
Las Vegas, NV 89101

Department of Business & Industry
1830 College Parkway, Suite #100
Carson City, NV 89706

Nevada State Library & Archives
100 N. Stewart St.
Carson City, NV 89701

Washoe County Court House
75 Court St.
Reno, NV 89501

Copies of all materials relating to the proposal were made available at the workshop and adoption hearing, at the offices of the Authority, on the Authority's website at www.nta.nv.gov, and at the Nevada State Library, 100 North Stewart St., Carson City, NV.

A workshop was held on September 24, 2013. On November 5, 2013, the Authority issued a Notice of Intent to Act Upon a Regulation. A public hearing was held on December 6, 2013. The minutes of the workshop and the public hearing, attached hereto, contain summaries of the discussion held regarding the proposed amendments.

A copy of this summary of the public response to the proposed regulation may be obtained from the Authority, 2290 South Jones Blvd. Suite 110, Las Vegas, Nevada 89146, (702) 486-3303.

3. The number of persons who:

a. Attended each workshop/hearing: September 24, 2013 — 36;
December 6, 2013 — 33.

b. Testified at each workshop/hearing: September 24, 2013 — 6;
December 6, 2013 — 4.

c. Submitted to the agency written comments: 2.

4. For each person identified in paragraphs (b) and (c) of number 3 above, the following information if provided to agency conducting the hearing:

Testified at Workshop:

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Testified at Adoption Hearing:

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Reno-Spark Cab, Yellow Cab,
Executive Limousine

- 5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained in the response to question #2 above.

- 6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reason for adopting the regulation without change.**

Not applicable. The permanent regulation was adopted on December 6, 2013. There were no suggested changes at the workshop or adoption hearing. A suggested change was proposed by the Livery Operators Association (LOA) following the workshop. Chairman MacKay integrated the suggested changes from the LOA into the proposed regulations but subsequently removed the changes prior to the adoption hearing because Legislative Counsel informed the Chairman that the proposed changes would not comply with certain provision of Senate Bill 210 from the 2013 Legislative Session. The adopted regulations were the same as those regulations discussed at the workshop.

- 7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately and each case must include:**
- a. Both adverse and beneficial effects; and**

b. Both immediate and long-term effects

The proposed regulations will have no significant adverse or beneficial economic impact upon the regulated industry, either immediately or long-term. Testimony received at the workshop and adoption hearing concerning any fiscal impact on carriers or drivers was limited to the fee provisions of Senate Bill 210 (and codified statutes) and not the regulations as proposed and adopted by the Authority.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the Authority for enforcement, specifically due to this regulation.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates federal regulation, the name of the regulating federal agency.

There are not any regulations of other state or government agencies which the proposed regulation overlaps or duplicates.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

Not applicable.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable.

12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Authority has determined that the proposed regulations do not impose a direct and significant economic burden upon small business or restrict the formation, operation or expansion of a small business. In making this determination the Authority considered that several representatives of affected small businesses were present at the workshop and at the adoption hearing; and that at the workshop and the adoption hearing, Chairman Andrew J. MacKay asked the participants several times to address any impact on small business; and that no impacts on small business were identified for the regulations as adopted. Additionally, the Authority afforded businesses additional time following the workshop, as well as prior to and during the adoption hearing to submit,

in writing or verbally, any impacts the proposed regulation may have; no written or verbal comments were received by the Authority.

*Further explanation on how the Authority determined the impact the adopted regulations will have on small businesses can be found in statement prepared by Chairman MacKay pursuant to NRS 233B.0608 and NRS 233B.0608